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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2330 of 2021
and C.M.P. No.17681 of 2021

Kumaresan

...

Petitioner /
Defendant

versus

Radhakrishnan

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.184 of 2019 in O.S.No.83 of 2018 dated 24.10.2019 on the file of the learned Principal District Judge, Thiruvanamalai.

For Petitioner : Mr.M.Devaraj

ORDER

This Civil Revision Petition is filed challenging the order dated 24.10.2019 passed in I.A.No.184 of 2019 in O.S.No.83 of 2018 on the file of the learned Principal District Judge, Tiruvanamalai.



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2. The learned counsel for the petitioner submitted that, the respondent filed the suit in O.S.No.83 of 2018 for recovery of money from the petitioner on the basis of 4 promissory notes. The case of the petitioner is that, the petitioner has not borrowed any money from the respondent, as alleged in the plaint on the basis of A, B, C, D promissory notes alleged to have been executed by the petitioner. The specific case of the petitioner is that, the petitioner borrowed a sum of Rs.2 lakhs from the respondent in 2015 for agricultural purpose. At the time of his borrowal, he had handed over 4 signed blank promissory notes to the respondent. Using the signed blank promissory notes, the promissory notes concerned in this case had been forged and the suit was filed. Therefore, the petitioner filed I.A.No.184 of 2019 under Section 45 of the Indian Evidence Act, for sending the 4 promissory notes for comparing the disputed signatures in these promissory notes along with the admitted signatures in vakalat, draft security, bare security, written statement and counter. This petition was opposed by the respondent. The learned Principal District Judge, after considering the rival submissions, dismissed the petition. Challenging the said dismissal order, this Civil Revision Petition is preferred.



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3. The learned counsel for the petitioner submitted that, when the petitioner denied the borrowal and execution of the promissory notes and set up a plea that, the suit promissory notes are forged, it is for the respondent to send the disputed promissory notes for comparison of the signatures found in the promissory notes with admitted signatures of the petitioner. However, the respondent has not taken any steps for sending the disputed promissory notes for Handwriting Expert. Thus, this has become necessary for the petitioner to file the application. However, without considering the submissions of the petitioner, this petition was dismissed.

4. Considered the submissions of the learned counsel for the petitioner and perused the records.

5. It appears that the presuit notice was given and no reply was sent. Only from the written statement, this Court comes to know about the first reaction of the petitioner with regard to the alleged execution of the promissory notes. In para 8 of the written statement, it is specifically stated



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that, the petitioner borrowed a sum of Rs.2 lakhs from the respondent. At the time of his borrowal, he gave 4 signed blank promissory notes to the respondent. It is further case of the petitioner that, using these 4 signed blank promissory notes, the suit promissory notes are forged by the respondent. This contention of the petitioner look out sorts for the reason that, when the respondent is in position of signed blank promissory notes of the petitioner, what is the necessity for the respondent to forge the signatures of the petitioner and create the forged promissory notes. That apart, it is for the plaintiff / respondent to prove that the petitioner borrowed monies as claimed in the plaint and executed the promissory notes by examining himself and attesting witnesses. This Court finds no reason to interfere with the order of the learned Principal District Judge, Thiruvanamalai and the order dated 24.10.2019 passed in I.A.No.184 of 2019 in O.S.No.83 of 2018, is hereby confirmed.

6. Resultantly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.



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Speaking order / Non-speaking order
Index : Yes / No

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To

The Principal District Judge,
Thiruvanamalai.



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G.CHANDRASEKHARAN, J.

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